

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order No. O-13-073

FINAL AGENCY ORDER

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF CIGNA
HEALTHCARE OF COLORADO, INC.

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance ("Commissioner") as a result of a market conduct examination ("MCE") conducted by the Colorado Division of Insurance ("Division") of Cigna Healthcare of Colorado, Inc. ("Respondent"), pursuant to §§ 10-1-203, 10-1-204, and 10-1-205, as well as § 10-3-1106, C.R.S.

The Commissioner has fully considered and reviewed the Verified MCE Report ("Report") dated November 8, 2012, the written submissions and rebuttals provided on December 10, 2012, by Respondent in response to the Report, and the recommendations of staff.

The Report covers the examination period of January 1, 2010, through June 30, 2011.

The Commissioner makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At all relevant times during the examination, the Respondent was licensed by the Division to conduct business as a Health Maintenance Organization in the State of Colorado.
2. On November 8, 2012, in accordance with §§ 10-1-203, 10-1-204, 10-1-205, 10-3-1106, and 10-16-416, C.R.S., the Division completed an MCE of the Respondent. The period of examination was January 1, 2010, through June 30, 2011.
3. In conducting the MCE, the examiners observed those guidelines and procedures set forth in the 2011 Market Regulation Handbook adopted by the National Association of Insurance Commissioners.
4. The MCE was completed on November 8, 2012. Pursuant to § 10-1-205(2) the market conduct examiners prepared the Report, which the Examiner-in-Charge timely filed

with the Division, under oath, on November 8, 2012. The Report was subsequently timely transmitted to Respondent on November 8, 2012.

5. On November 8, 2012, the Division provided the Respondent with written notification that it was afforded a right to file, within thirty (30) days, written submissions or rebuttals with respect to any matter contained in the Report.
6. Pursuant to § 10-1-205(1), C.R.S., the Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons who were examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
7. On December 10, 2012, Respondent timely filed written submissions and rebuttals to the Report as provided for at § 10-1-205(2), C.R.S.
8. The Commissioner has fully considered and reviewed the Report, Respondent's December 10, 2012, submissions and rebuttals to the Report, and the recommendations of staff.
9. The MCE has proceeded under the substantive terms, authority and procedures set forth at §§ 10-1-203, 10-1-204, 10-1-205, 10-3-1106, and 10-16-416, C.R.S.

CONCLUSIONS OF LAW AND ORDER

10. Pursuant to § 10-1-205(3)(a), C.R.S., the Commissioner adopts the Report as modified ("Modified Report"). The Commissioner has modified the Report as follows: Issue K2 was removed from the Report. In addition, the explanation regarding the missing benefits for Issue E3 was modified. Finally, the language regarding Issues J1 and J2 being repeat issues was removed.
11. The Commissioner finds the Respondent operated in violation of Colorado insurance law and hereby orders the Respondent to take necessary and appropriate action, as set forth herein, to cure such violations.
12. The Commissioner considered the options available under §10-1-205(3)(b) and (c), C.R.S. After such consideration the Commissioner did not reject the Report or direct the examiners to reopen the examination for the purposes of obtaining additional data, documentation, or information, or to refile the Report pursuant to subsection (1) of §10-1-205, C.R.S. The Commissioner finds an investigatory hearing, pursuant to §10-1-205(3)(c), C.R.S., for the purposes of obtaining additional documentation, data, information, and testimony, is not warranted.
13. A copy of the Modified Report is attached to the Final Agency Order and is incorporated herein. The November 8, 2012, Report provided Respondent with the

opportunity to show cause as to why it should not be found in violation of the Colorado insurance laws and/or regulations for all issues identified below. Respondent provided its submission and rebuttals on December 10, 2012. The Respondent was required to cure the violations set forth below in the time frame and manner set forth below.

14. Issue E1: Failure to reflect the required definition of a “significant break in coverage” in the Certificate of Creditable Coverage form used by the Company. This failure constitutes a violation of § 10-16-118, C.R.S., and Colorado Insurance Regulation 4-2-18. The Respondent was required to provide written evidence to the Division that it has revised its certificate of creditable coverage form to include the definition of a “significant break in coverage” as required by Colorado insurance law. The Division’s records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
15. Issue E2: Failure of the Company’s forms, in some instances, to reflect correct information concerning conversion coverage. This failure constitutes a violation of § 10-16-108, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable forms to reflect correct eligibility requirements for conversion with regard to eligibility for, versus being covered by, Medicare, as required by Colorado insurance law. The Division’s records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
16. Issue E3: Failure of the Company’s forms, in some instances, to reflect correct or complete coverage to be provided for Home Health Services and Hospice Care. This failure constitutes a violation of Colorado Insurance Regulations 4-2-8 and 4-6-5. The Respondent was required to provide written evidence to the Division that it has revised the content of all applicable certificates and any other policy forms to reflect correct and complete coverage to be provided for Home Health Services and Hospice Care as required by Colorado insurance law. The Division’s records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
17. Issue E4: Failure of the Company’s forms, in some instances, to reflect required minimum standards for handling appeals involving utilization review determinations. This failure constitutes a violation of Colorado Insurance Regulation 4-2-17. The Respondent was required to provide written evidence to the Division that it has revised the content of all applicable forms to reflect the required minimum standards for utilization review, as required by Colorado insurance law. The Division’s records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
18. Issue E5: Failure to include all required items on the form to be used by enrollees wishing to register written complaints. This failure constitutes a violation of Colorado Insurance Regulation 4-7-2. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised the content of all applicable policy forms to reflect all information related to

submission of a complaint, as required by Colorado insurance law. Within these sixty (60) days, the Respondent shall also provide the Division with specimen copies of all applicable forms reflecting the required items for members wishing to submit a written appeal of an adverse decision and provide the proposed date that the forms will be put in use.

19. Issue E6: Failure of the Company's forms, in some instances, to reflect a complete description of coverage to be provided for hospital stays for newborns and maternity expenses. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised the content of all applicable forms to reflect a complete description of the coverage to be provided for hospital stays for newborns and maternity expenses as required by Colorado insurance law. The Division's records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
20. Issue E7: Failure of the Company's forms, in some instances, to reflect the correct annual maximum benefit for Early Intervention Services from January 1, 2010 until September 23, 2010. This failure constitutes a violation of § 10-16-104, C.R.S., and Colorado Insurance Regulation 4-2-28. The Division's records indicate that prior to the issuance of the Report, the Respondent provided documentation to the Division of corrective actions, which if fully implemented, would bring the Respondent into compliance with the requirement to reflect the correct annual maximum benefit for Early Intervention Services in its contract forms.
21. Issue E8: Failure of the Company's forms, in some instances, to allow prescription drug benefits due to a covered person's addiction to or dependency on tobacco. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has corrected all applicable forms to remove the exclusion for prescription smoking cessation products as required by Colorado insurance law. Within these sixty (60) days, the Respondent shall also provide the Division with specimen copies of all revised policy forms reflecting removal of the exclusions for prescription smoking cessation products and provide the proposed date that the forms will be put in use.
22. Issue E9: Failure of the Company's forms, in some instances, to reflect the complete coverage required for hearing aids for children. This failure constitutes a violation of § 10-16-104, C.R.S., and Colorado Insurance Regulation 4-2-30. The Respondent was required to provide written evidence to the Division that it has revised all applicable policy forms to reflect complete coverage to be provided for hearing aids for children as required by Colorado insurance law. The Division's records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
23. Issue E10: Failure of the Company's forms, in some instances, to correctly reflect the required coverage for inherited enzymatic disorders. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to

the Division that it has revised all applicable policy forms to reflect the required coverage for inherited enzymatic disorders as required by Colorado insurance law. The Division's records indicate the Respondent has corrected its forms to comply with recommendations in the Report.

24. Issue E11: Failure of the Company's forms, in some instances, to provide accurate information regarding the responsibility to track member copayments and copayment maximums. (*The examiners identified this as a repeat of prior issue E1 in the findings of the 2005 final examination report.*) This failure constitutes a violation of §§ 10-16-107, and 10-16-413, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable forms to reflect that members do not carry the primary responsibility of maintaining records relating to copayments and copayment maximums as required by Colorado insurance law. The Division's records indicate the Respondent has corrected its forms to comply with recommendations in the Report.

In the market conduct examination for the period January 1, 2005 through December 31, 2005, the Respondent was cited for failure to properly track member copayments and copayment maximums. The violation resulted in Item # 10 of Final Agency Order O-08-011 that indicated the Company was required to revise all applicable forms to indicate that members do not carry the primary responsibility of maintaining records relating to copayments and copayment maximums to ensure compliance with Colorado insurance law. Having been previously ordered to revise its forms in this manner, the Company knew or should have reasonably known that its continued use of such forms during the current examination period constituted a repeat violation of §§10-16-107, and 10-16-413, C.R.S., providing grounds for an increased penalty pursuant to § 10-1-205(3)(d), C.R.S.

25. Issue E12: Failure of the Company's forms, in some instances, to reflect correct information regarding the subscribers' option to continue coverage. This failure constitutes a violation of § 10-16-108, C.R.S. The Respondent was required to provide written evidence to the Division that it has corrected all applicable policy forms to reflect correct information to allow subscribers to continue coverage as required by Colorado insurance law. The Division's records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
26. Issue E13: Failure of the Company's forms, in some instances, to reflect the required disclosure regarding specific counties with no participating providers. This failure constitutes a violation of § 10-16-704, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable policy forms to reflect specific counties of the state where there are no participating providers as required by Colorado insurance law. The Division's records indicate the Respondent has corrected its forms to comply with recommendations in the Report.

27. Issue E14: Failure of the Company's forms, in some instances, to reflect a correct definition of a disabled dependent. (*This was part of prior issue E2 in the findings of the 2005 final examination report.*) This failure constitutes a violation of § 10-16-102, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable policy forms to reflect a correct definition of who qualifies as a disabled dependent as required by Colorado insurance law. The Division's records indicate the Respondent has corrected its forms to comply with recommendations in the Report.

In the market conduct examination for the period January 1, 2005 through December 31, 2005, Cigna was cited for failure to correctly define a "disabled dependent". The violation resulted in Item #11 of Final Agency Order O-08-011 that indicated the Company was required to revise its forms to correctly reflect who qualifies as a disabled dependent as required by Colorado insurance law. Having been previously ordered to revise its forms in this manner, the Company knew or should have reasonably known that its continued use of such forms during the current examination period constituted a repeat violation of § 10-16-102, C.R.S., providing grounds for an increased penalty pursuant to § 10-1-205(3)(d), C.R.S.

28. Issue F1: Providing a premium discount to some groups at renewal that was not included in any rate filing or group contract. This failure constitutes a violation of §§ 10-3-1104, and 10-16-107, C.R.S., and Colorado Insurance Regulation 4-2-11. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has either discontinued using the "early renewal incentive program" or included information concerning the program in its contracts and submitted a rate filing to the Division that includes a description of this program. Within these sixty (60) days, the Respondent shall also provide the Division with written evidence that the program has been discontinued, or with specimen copies of all revised contract forms and rate filings containing information concerning the "early renewal incentive program" and the proposed date the forms and rates will be put in use.
29. Issue J1: Failure, in some instances, to pay, deny or settle claims within the time periods required by Colorado insurance law. This failure constitutes a violation of § 10-16-106.5, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised its procedures to ensure that all claims are paid, denied or settled within the time periods required by Colorado insurance law. The Division's records indicate the Respondent has submitted procedures, which if fully implemented, appear to comply with the corrective actions required concerning this violation.
30. Issue J2: Failure, in some instances, to pay late payment penalties due on claims. This failure constitutes a violation of § 10-16-106.5, C.R.S. The Respondent was required to provide written evidence to the Division that it has established the necessary procedures to ensure that all late payment interest and penalties due on claims is correctly calculated and paid as required by Colorado insurance law. The Division's

records indicate that the Respondent has submitted procedures, which if fully implemented, appear to comply with the corrective actions required concerning this violation.

31. Issue K1: Failure, in some instances, to have initial denial of benefit letters or first level review adverse determinations signed by a licensed physician. This failure constitutes a violation of § 10-16-113, C.R.S. The Respondent was required to provide written evidence to the Division that it has implemented procedures to ensure that all written denials of benefits, on the ground that such treatment or covered benefit is not medically necessary, appropriate, effective, or efficient, are signed by a licensed physician familiar with standards of care in Colorado as required by Colorado insurance law. The Division's records indicate that the Respondent has submitted procedures, which if fully implemented, appear to comply with the corrective actions required concerning this violation.
32. Issue K2: Issue was removed from the report.
33. Issue K3: Failure, in some instances, to provide covered persons the twenty (20) day advance notice required for voluntary second level reviews. (*The examiners identified this as a repeat of prior issue K7 in the findings of the 2005 final examination report.*) This failure constitutes a violation of Colorado Insurance Regulation 4-2-17. The Respondent was required to provide written evidence to the Division that it has implemented procedures to ensure that notification in writing to a covered person shall be at least twenty (20) days in advance of the review date for a voluntary second level review as required by Colorado insurance law. The Division's records indicate that the Respondent has submitted procedures, which if fully implemented, appear to comply with the corrective actions required concerning this violation.

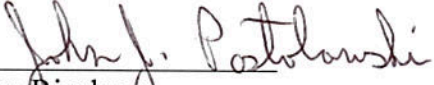
In the market conduct examination for the period January 1, 2005 through December 31, 2005, Cigna was cited for failure, in some instances, to provide notice of voluntary second level review scheduling to covered persons at least twenty (20) days prior to the scheduled review date. The violation resulted in Item #27 of Final Agency Order O-08-011 that indicated the Company was required to revise its policies and procedures to ensure that covered persons are notified in writing at least twenty (20) days in advance of the second level review date as required by Colorado insurance law. Having been previously ordered provide notification in this manner, the Company knew or should have reasonably known that its continued use of such forms during the current examination period constituted a repeat violation of Colorado Insurance Regulation 4-2-17, providing grounds for an increased penalty pursuant to § 10-1-205(3)(d), C.R.S.

34. The issues and violations described in paragraphs 14 through 33 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Commissioner has ordered a civil penalty in the amount of ninety-two thousand and no/100 dollars (\$92,000.00) for the cited violations of Colorado law. However, the Commissioner hereby stays \$30,000.00 of the \$92,000.00 civil penalty based upon documentation of

corrective actions initiated by the Respondent prior to issuance of this Final Agency Order, which appear to correct the cited violations of Colorado law. The stayed portion of the civil penalty shall become due and payable if the Division subsequently determines that the Respondent is not in substantial compliance with all corrective actions included in this Final Agency Order. The remaining \$62,000.00 penalty shall be assessed a surcharge of 10% or \$6,200.00, pursuant to 24-34-108, C.R.S., for a total balance due of sixty-eight thousand two hundred dollars (\$68,200.00). The surcharge shall be used to fund the development, implementation and maintenance of a consumer outreach and education program. The penalty and surcharge shall be due to the Division no later than thirty (30) days from the date of this Final Agency Order.

35. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Final Agency Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the Report, as modified and adopted by this Final Agency Order, dated December 21, 2012.
36. This Final Agency Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Final Agency Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Final Agency Order may result in additional actions, penalties and sanctions, as provided for by law. Copies of the Modified Report and this Final Agency Order will be made available to the public no earlier than thirty (30) days after the date of this Final Agency Order, subject to the requirements of § 10-1-205, C.R.S.
37. Pursuant to § 10-1-205(4)(a), C.R.S., this Final Agency Order shall be considered a final agency decision. Review of such decision may be sought in the District Court in and for the City and County of Denver and shall be governed by the "State Administrative Procedure Act," Article 4 of Title 24, C.R.S.
38. Pursuant to § 10-1-205(4)(e), C.R.S., the civil penalty assessed in this Final Agency Order may be appealed directly to the Colorado Court of Appeals within the applicable time frames of the Colorado Appellate Rules.

WHEREFORE: It is hereby ordered that the findings of facts and conclusions of law contained in the Report dated November 8, 2012, subsequently adopted by the Commissioner with modifications on December 21, 2012, are hereby filed and made an official record of this office, and the within Final Agency Order incorporating the adopted Modified Report is hereby approved and effective this 21st day of December, 2012.



Jim Riesberg

Commissioner of Insurance

By John J. Postolowski

Deputy Commissioner of Finance and Administration

CERTIFICATE OF MAILING

I hereby certify that on the 21st day of December, 2012, I caused to be deposited the **FINAL AGENCY ORDER NO. O-13-073 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF CIGNA HEALTHCARE OF COLORADO, INC.**, in the United States Mail via certified mailing with postage affixed and addressed to:

Ms. Kim Bimestefer, President
Cigna HealthCare of Colorado, Inc.
Routing 391
3900 East Mexico Avenue, Suite 1100
Denver, CO 80210-3946



Eleanor Coe
Market Regulation Administrator
Division of Insurance